

**CITY OF NEWPORT BEACH  
PLANNING COMMISSION STAFF REPORT**

December 6, 2012 Meeting  
Agenda Item 2

**SUBJECT:** Goldenrod Variance - PA2012-126  
211 Goldenrod Avenue  
Variance No. VA2012-006

**APPLICANT:** Annette Wiley, AIA – Wiley Architects

**PLANNER:** Fern Nueno, Associate Planner  
(949) 644-3227 or [fnueno@newportbeachca.gov](mailto:fnueno@newportbeachca.gov)

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**PROJECT SUMMARY**

The proposed project consists of the demolition of the existing single-unit dwelling and construction of a new 1,848-square-foot, single-unit dwelling with a two-car tandem garage. The applicant requests a variance to encroach 5 feet into the required 10-foot rear setback adjacent to the northwestern property line. The applicant also requests to exceed the maximum allowed floor area limit for the property of 1,404 square feet by 444 square feet. The applicant further requests to allow the third floor to be located closer than 15 feet from the front setback line and to exceed the allowed third floor area of 20 percent of the buildable area by approximately 30 square feet.

**RECOMMENDATION**

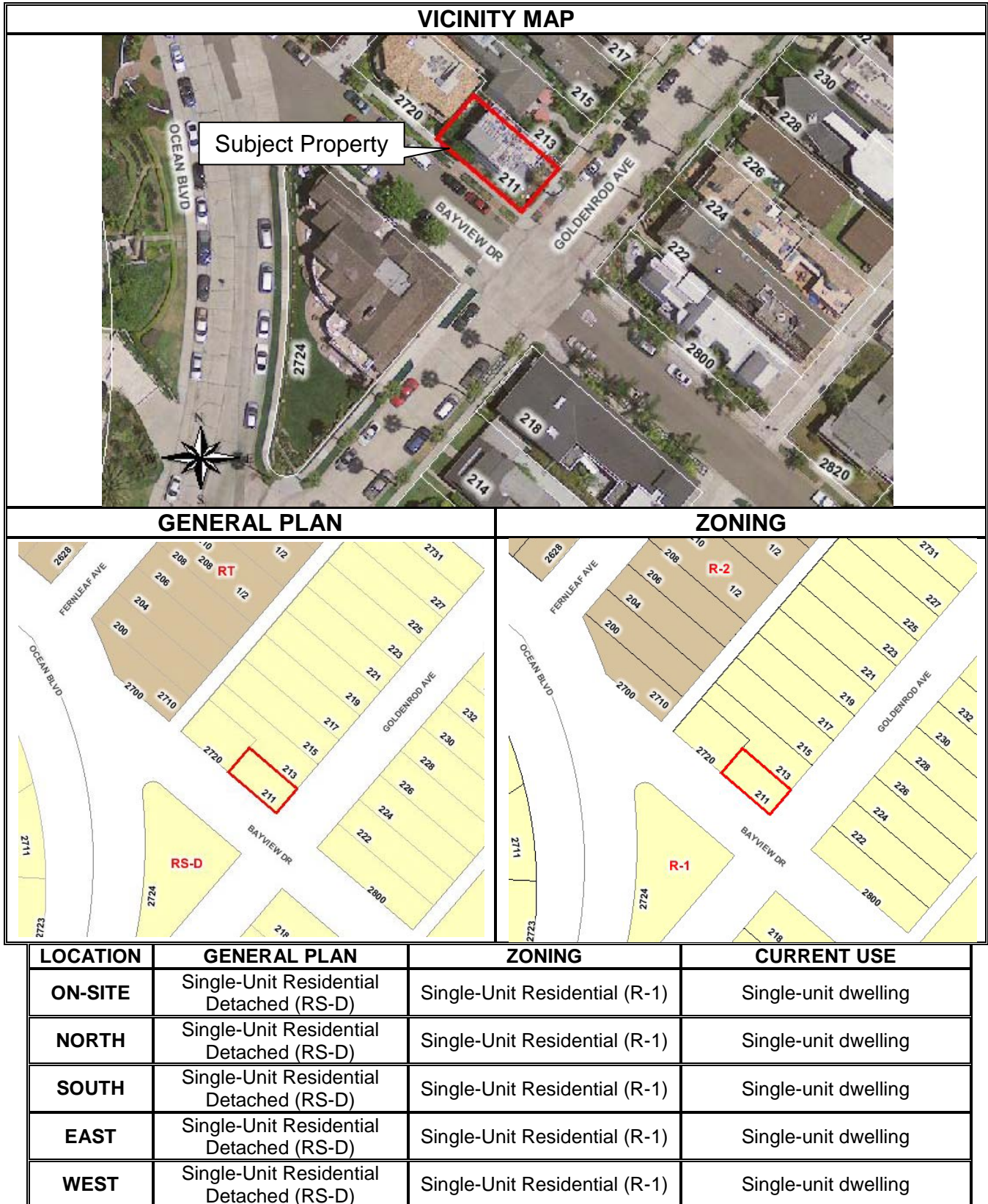
- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. \_\_\_\_ approving Variance No. VA2012-006 (Attachment No. PC 1).

**INTRODUCTION**

Project Setting

The subject property is located within Corona del Mar at the north corner of Goldenrod Avenue and Bayview Drive. The subject lot is 1,770 square feet in area (59' X 30') where the typical lots in the area are 3,540 square feet in area (118' X 30'). Some of the end lots along each block and lots along Ocean Boulevard vary in shape and size. Corona del Mar is developed with mostly single- and two-unit dwellings. The subject property is developed with a single-unit dwelling with a one-car garage that is nonconforming due to height, parking, and floor area.







## **DISCUSSION**

### Analysis

#### *General Plan, Local Coastal Plan, and Zoning Code*

The Land Use Element of the General Plan designates the site as Single-Unit Residential Detached (RS-D), the Coastal Land Use Plan designates this site as Single-Unit Residential Detached (RSD-B), and the Zoning Code designates the site as Single-Family Residential (R-1), which are intended to provide for detached single-unit residential dwellings on a single legal lot. The proposed development is consistent with these designations and will not change the use of the property.

#### *Setback Encroachment Variance*

The required setbacks for the subject property are 10 feet along the front property line adjacent to Goldenrod Avenue, 3 feet along the side property lines, and 10 feet along the rear property line. The applicant proposes to maintain the 10-foot front setback, preserving the neighborhood pattern of development along Goldenrod Avenue. The request is to encroach 5 feet into the required 10-foot rear setback with a two story portion of the structure and a roof deck. The default rear setback for R-1 properties is 10 feet unless the property abuts an alley. The typical lots in Corona del Mar have alley access and are subject to a 5-foot rear alley setback requirement. The subject property is a half lot and lacks alley access as a result of a prior re-subdivision. The lack of alley access results in the Zoning Code requirement for a 10-foot rear setback that is intended for larger-sized lots and is not required for typical lots in Corona del Mar. Application of a 10-foot rear setback and 10-foot front setback would equate to approximately 33.9 percent of the lot depth. In comparison, application of the standard 10-foot front setback and 5-foot rear alley setback on the typical 118-foot deep lot in the vicinity would equate to 12.7 percent of the lot depth.

The intent of a rear setback is to provide adequate separation for light, air, and usable outdoor living space adjacent to other residential properties. However, in Corona del Mar, most properties abut an alley to the rear and do not have usable rear yards, but instead utilize their front yards, courtyards, and decks for outdoor living space. The rear setback area of the subject property abuts the side setback area of the adjacent property that fronts Bayview Drive. The required side setback for a property is based on the width of the lot. The proposed 5-foot rear setback is compatible with the required 4-foot side setback on the abutting property and other dwellings in the area that maintain 3-foot side setbacks. The proposed design maintains the required 10-foot front setback providing for usable outdoor living space consistent with the other properties in the vicinity, in addition to the two balconies and a roof deck. The project also meets the open volume requirement of 15 percent of the buildable area.

Although the City has a process for establishing alternative setback areas where the orientation of an existing lot is not consistent with the character or orientation of other lots in the vicinity, the applicant is requesting additional floor area beyond what would be allowed using the revised buildable area based on the alternative setbacks; therefore, a variance is requested for the setback encroachment, floor area, and the third floor limitations.

#### *Floor Area Variance*

The Zoning Code allows structures within the R-1 Zoning District of Corona del Mar to have a maximum floor area, or Floor Area Limit ("FAL"), equal to 1.5 times the buildable area of the lot. The buildable area of a lot is the lot area excluding the required setback areas. Using the required setbacks and this formula, the FAL for the subject lot is 1,404 square feet. The proposed single-unit dwelling would have a gross floor area of 1,848 square feet, which would exceed the FAL by 444 square feet. The floor area ratio ("FAR") is the floor area to lot area ratio and is a method to compare the maximum square footage allowed on a site based on the lot size. Table 1 compares the development standards, FAR, and FAL of the subject lot, two typical lots in the vicinity, and the proposed project. The required front setback areas vary from 5 feet to 25 feet, with 10, 15, and 20 feet being the most common in the area.

**Table 1**  
**Development Standards Comparison**

|                                  | <b>Typical Lot<br/>(10 foot front<br/>setback)</b> | <b>Typical Lot<br/>(20 foot front<br/>setback)</b> | <b>Subject Lot<br/>Required</b> | <b>Proposed<br/>Project</b> |
|----------------------------------|--|--|---------------------------------|-----------------------------|
| <b>Front<br/>Setback</b>         | 10'  | 20'  | 10'                             | 10'                         |
| <b>Side<br/>Setbacks</b>         | 3'   | 3'   | 3'                              | 3'                          |
| <b>Rear Setback</b>              | 5' (alley)   | 5' (alley)   | 10'                             | 5'                          |
| <b>Lot Area (SF)</b>             | 3,540<br>(30' x 118')                              | 3,540<br>(30' x 118')                              | 1,770<br>(30' x 59')            | 1,770<br>(30' x 59')        |
| <b>Buildable<br/>Area (SF)</b>   | 2472<br>(70% of lot)                               | 2232<br>(63% of lot)                               | 936<br>(53% of lot)             | 1056<br>(60% of lot)        |
| <b>Floor Area<br/>Limit (SF)</b> | 3708   | 3348   | 1404                            | 1,848                       |
| <b>Floor Area<br/>Ratio</b>      | 1.05   | 0.95   | 0.79                            | 1.04                        |

Due to the required setbacks, the subject property has a smaller buildable area as a percent of the lot when compared to typical lots Corona del Mar and thus has a lower floor area limit. As illustrated in Table 1, the buildable area of the subject lot with the code required setbacks is 53 percent of the total lot area; the buildable area of the larger, typical lot equates to 63 or 70 percent of the total lot area, depending on the required front setback. The buildable area of the proposed project would equate to 60 percent of the lot area, which is closer to the typical lots in the area.

The intent of floor area limits is to ensure each residential structure can be developed with a reasonable sized dwelling in relationship to the lot size and setbacks. To establish a recommendation, staff used an FAR comparison to determine an appropriate floor area, a method that has been used in the past when analyzing similar requests. Allowing additional floor area above the FAL, would allow for the construction of a reasonable sized dwelling that remains consistent with the development pattern in the vicinity. Strict application of the code required 1.5 FAR allows a maximum of 1,404 gross square feet, which results in an FAR of 0.79. The FAR of a typical lot within the block with a 10-foot front setback is 1.05. The applicant's requested variance to exceed the 1.5 floor area limit with a single-unit dwelling that has a gross floor area of 1,848 square feet results in a 1.04 FAR, which is consistent with the typical lots within the vicinity. Therefore, the floor area of the proposed structure would not be out of proportion to the allowed floor area within the immediate neighborhood and throughout Corona del Mar. The additional floor area would allow the design to include two bedrooms, a kitchen, a great room, and an entertainment loft area.

### *Third Floor Limitations Variance*

Section 20.48.180 (Residential Development Standards and Design Criteria) of the Zoning Code establishes a third floor area limit of 20 percent of the buildable area (for lots 30 feet wide or less). The third floor area is also required to be set back an additional 15 feet from the front and rear setback lines. Twenty percent of the buildable area is 187 square feet and the applicant proposes a third floor area of 220 square feet, 33 square feet above the maximum. The application of the standard third floor area location requirements would allow a 9-foot by 24-foot area in which to construct a third floor. A typical lot with a 10-foot front setback and 5-foot alley setback would have an area of 73 feet by 24 feet in which to construct a third floor with a maximum third floor area of 494 square feet.

Due to the short depth of the lot, the additional setback requirements make the design difficult to achieve. Additionally, the first floor is partially below grade, so the third floor is not a typical third floor and it is designed with a flat roof at the 24-foot height limit. Most third floors are constructed with a pitched roof built to the 29-foot pitched roof height limit. The third floor is a loft entertainment room with a bathroom and provides access to the two third floor decks and the roof deck. Furthermore, the location of the third floor will have minimal aesthetic impact to the views from the streets because of the balcony, windows, and other design features of the structure.

### *Variance Findings and Summary*

Pursuant to Section 20.52.090 (Variances) of the Zoning Code, the Planning Commission must make the following findings in order to approve a variance:

- 1. There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification;*
- 2. Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification;*
- 3. Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;*
- 4. Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district;*
- 5. Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and*
- 6. Granting of the variance will not be in conflict with the intent and purpose of this section, this Zoning Code, the General Plan, or any applicable specific plan.*

Staff believes sufficient facts exist to support the variance request for the rear setback encroachment, increased floor area, and third floor exceptions, as demonstrated in the Draft Resolution (Attachment No. PC 1).

As previously discussed, the subject property is sub-standard in size due to a prior re-subdivision and it lacks alley access. Given its small size, application of required setbacks results in a disproportionate reduction in buildable area and thus less allowable floor area. The proposed encroachment into the rear setback is reasonable in this case due to the extremely short depth of the lot. The encroachment affords the property owner a more usable buildable lot depth and the rear setback is adjacent to the 4-foot side setback area of the adjacent lot. The proposed gross floor area of the dwelling is consistent with the FAR of typical nearby lots in Corona del Mar. The equitable FAR preserves private property rights, while ensuring a special privilege is not granted to the property owner, and results in a dwelling that is proportionate to others in the area and is consistent with the neighborhood development pattern. The strict application of the third floor limitations would not allow an adequate third floor to be constructed due to the

short depth of the lot and small buildable area. The design of the proposed third floor and deck reduces any potential aesthetic impacts and allows reasonable living area for the dwelling.

### Alternatives

The Planning Commission has the option to approve a revised project for alternate setback encroachments, gross floor area, and third floor limitations based on the required findings for approval. The Planning Commission also has the option to deny the request if any of the required findings cannot be made (Draft resolution for denial is provided as Attachment No. PC 2). Denial of the Variance would allow construction of a 1,404 square-foot dwelling with the required setbacks and third floor limitations.

### Environmental Review

The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures), which allows for the construction of new, small structures, including one single-unit residence in a residential zone. In this case, an existing single-unit dwelling would be demolished and a new single-unit dwelling would be constructed on the lot located within the Single-Unit Residential Zoning District.

### Public Notice

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant, and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:



Fern Nueno, Associate Planner

Submitted by:



Brenda Wisneski, AICP, Deputy Director

### ATTACHMENTS

- PC 1 Draft Resolution - Approve
- PC 2 Draft Resolution - Deny
- PC 3 Applicant's Project Description
- PC 4 Project Plans



# **Attachment No. PC 1**

Draft Resolution - Approve



RESOLUTION NO. \_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING VARIANCE NO. VA2012-006 FOR AN ENCROACHMENT INTO THE REAR SETBACK, AN INCREASE IN FLOOR AREA LIMIT, AND EXCEPTIONS FROM THE THIRD FLOOR LIMITATIONS ASSOCIATED WITH THE CONSTRUCTION OF A NEW SINGLE-UNIT DWELLING LOCATED AT 211 GOLDENROD AVENUE (PA2012-126)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Annette Wiley, with respect to property located at 211 Goldenrod Avenue, and legally described as the southeasterly ½ of Lot 1, Block 133, Re-subdivision of Corona del Mar, requesting approval of a variance.
2. The applicant proposes to construct a new single-unit dwelling with a two-car garage on a sub-standard size lot. The applicant is requesting a variance to encroach 5 feet into the required 10-foot rear setback, to exceed the maximum allowed floor area limit for the property (1,404 square feet) by 444 square feet, and to deviate from the third floor size and location limitations. The third floor would exceed the maximum floor area (187 square feet) by 33 square feet and would be located closer than 15 feet to the front setback line.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential (RS-D).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-B).
5. A public hearing was held on December 6, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place, and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under Section 15303, of the California Environmental Quality Act ("CEQA") Guidelines - Class 3 (New Construction or Conversion of Small Structures).
2. Class 3 allows for the construction of new, small structures, including one single-unit residence in a residential zone. In this case, an existing single-unit dwelling would be

demolished and a new single-unit dwelling would be constructed on the lot located within the Single-Unit Residential Zoning District.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.090 of the Newport Beach Municipal Code, the following findings for approval of a variance and facts in support of such findings are set forth:

#### Finding:

- A. *There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification.*

#### Facts in Support of Finding:

- A-1. The subject lot is a half lot measuring 30 feet by 59 feet, totaling 1,770 square feet in area. The surrounding typical lots in Corona del Mar are 30 feet by 118 feet, totaling 3,540 square feet in area. The lot depth, lot size, and buildable area of the subject property are significantly smaller than that of typical lots in the area.
- A-2. The typical lots in Corona del Mar maintain alley access and are subject to a 5-foot rear alley setback. In this case, the subject property is sub-standard in size and lacks alley access as a result of a prior re-subdivision, resulting in a 10-foot required rear setback and a proportionately smaller buildable area compared with the typical lots in the area.

#### Finding:

- B. *Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.*

#### Facts in Support of Finding:

- B-1. Applying standard setbacks to the subject property results in a smaller buildable area and floor area ratio ("FAR") than for typical lots in Corona del Mar. Additionally, the rear property line is not adjacent to an alley as with most typical lots within the vicinity and throughout Corona del Mar; therefore, the required rear yard setback is 10 feet instead of the typical 5-foot alley setback. This is an unusually large setback for not only the subject property, but for a typical lot within the vicinity. Strict application of these default setbacks results in a buildable area that is 53 percent of the total lot area, while the buildable area of the larger, typical lot with a 10-foot front setback equates to 70 percent of the total lot area.
- B-2. Strict application of the Zoning Code required floor area limit ("FAL") to the subject site allows a maximum area of 1,404 gross square feet, which results in an FAR of 0.79.

The allowed FAR of a typical lot with a 10-foot front setback located within the Single-Unit Residential Zoning District in Corona del Mar is 1.05.

- B-3. The lack of alley access results in a 10-foot rear setback that is intended for larger-sized lots and is not required for the typical lot throughout Corona del Mar. Application of a 10-foot rear setback and 10-foot front setback would equate to approximately 33.9 percent of the lot depth as a required setback. In comparison, application of the standard 10-foot front setback and 5-foot rear alley setback on the typical lot in the vicinity would equate to 12.7 percent of the lot depth.
- B-4. Strict application of the third floor limitations would limit the third floor area to 20 percent of the buildable area (187 square feet), and would require the third floor to be set back an additional 15 feet from the front setback line. The application of the standard third floor area location requirements would allow a 9-foot by 24-foot area in which to construct a third floor. A nearby typical lot with a 10-foot front setback and 5-foot alley setback would have an area of 73 feet by 24 feet in which to construct a third floor with a maximum third floor area of 494 square feet.

Finding:

- C. Granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.*

Facts in Support of Finding:

- C-1. The application of the 10-foot rear setback is unusually large and not typical of other lots in Corona del Mar and it significantly limits the buildable depth of the lot. The proposed encroachment into the rear setback is reasonable in this case due to the extremely short depth of the lot and affords the property owner a more usable buildable area and lot depth.
- C-2. The requested variance to exceed the 1.5 floor area limit with a single-unit dwelling that has a gross floor area of 1,848 square feet results in a 1.04 FAR, which is more consistent with the typical lots within the vicinity and allows the property owner the right to construct a dwelling with a similar FAR to other dwellings in Corona del Mar.
- C-3. The application of the third floor area limitations prevents the construction of a usable third floor area. Due to the short depth of the lot, the additional third floor setback requirements are not consistent with the intent of the Zoning Code as it results in an area that is 9 feet by 24 feet in which to construct the third floor and limits the size to 187 square feet in area.

Finding:

- D. Granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.*

Facts in Support of Finding:

- D-1. The proposed 5-foot rear setback does not result in a special privilege because it is consistent with the standard 5-foot alley setback and is compatible with the 4-foot side setback on the abutting property and with other dwellings in the area that maintain 3-foot side setbacks.
- D-2. The FAR is a method to compare the maximum square footage allowed on a site based on the lot size. Using an FAR comparison to determine the appropriate maximum square footage allowed on a site provides equity for sub-standard lots without granting special privilege. The proposed gross floor area results in an FAR of 1.04, which is less than the 1.05 FAR of typical lots in the area with a 10-foot front setback, ensuring that the increased floor area does not result in a special privilege not enjoyed by other property owners in the vicinity.
- D-3. The proposed deviations from third floor area limitations do not result in a special privilege because the limitations are based on the buildable area, which is proportionately smaller compared with the typical lots in the area. The first floor is partially below grade, so the third floor is not a typical third floor area and it is designed with a flat roof under the 24-foot height limit. Most third floors are constructed with a pitched roof built to the 29-foot pitched roof height limit.

Finding:

*E. Granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.*

Facts in Support of Finding:

- E-1. The proposed dwelling would provide adequate setbacks consistent with the neighborhood pattern of development and would ensure the protection of air, light, and separation that exists with other properties in the vicinity.
- E-2. The size of the proposed dwelling is proportionate to the other dwellings within the immediate neighborhood and throughout Corona del Mar.
- E-3. The design of the structure includes articulation and modulation through the use of several decks and windows to minimize bulk and enhance the aesthetics of the structure.
- E-4. The required two-car parking would be provided in a tandem garage.
- E-5. The property is located on a corner, which provides street access on two sides for emergency access.

Finding:

*F. Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.*

Facts in Support of Finding:

- F-1. The intent of a rear setback is to provide adequate separation for light, air, and usable outdoor living space adjacent to other residential properties. However, in Corona del Mar, most properties abut an alley and do not have usable rear yards, but instead utilize their front yards for outdoor living space. The proposed 5-foot rear setback is consistent with the standard 4-foot side setback on the abutting property and other dwellings in the area that maintain 3-foot side setbacks. The proposed design maintains the required 10-foot front setback providing for usable outdoor living space consistent with the other properties in the vicinity, in addition to the two balconies and roof deck.
- F-2. The intent of floor area limits is to ensure each residential structure can be developed with a reasonable sized dwelling in relationship to the lot size and setbacks; however, in this case, utilizing the FAL disproportionately reduces buildable area on this site due to the sub-standard lot size and larger rear setback requirement. Allowing additional floor area above the allowed FAL, would allow for the construction of a reasonable sized dwelling that remains consistent with the development of other dwellings in the vicinity.
- F-3. Due to the short depth of the lot, the additional third floor setback requirements are not consistent with the intent of the Zoning Code. The request to deviate from the third floor limitations is reasonable and justified due to the depth and size of the lot and the design of the proposed structure.
- F-4. The proposed project meets all other required code requirements, including parking, height, and open volume.
- F-5. The requested Variance is consistent with the intent of Zoning Code and General Plan because the proposed deviations from the Zoning Code allow for a single-unit dwelling with a comparable FAR to other properties in the vicinity. The design provides usable open volume area and articulation and modulation so that the bulk is consistent with other properties in the area.

## SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby approves Variance No. VA2012-006, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance

with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 6<sup>TH</sup> DAY OF DECEMBER, 2012.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Michael Toerge, Chairman

BY: \_\_\_\_\_  
Fred Ameri, Secretary

**EXHIBIT "A"****CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval, except as modified by applicable conditions of approval.
2. Variance No. VA2012-006 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. Prior to issuance of building permits, approval from the California Coastal Commission shall be required.
5. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
6. The proposed structure shall be limited to a maximum encroachment of 5 feet into the rear 10-foot setback, with the exception of decorative architectural features and roof overhangs which may encroach as allowed in the Zoning Code.
7. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code, including the glass railing, projections, stairway, and automatic fire sprinkler system requirements.
8. All improvements shall be constructed as required by ordinance and the Public Works Department.
9. All damaged or broken concrete curb, gutter, and sidewalk along Goldenrod Avenue and Bayview Drive shall be reconstructed.
10. The existing curb access ramp at the corner of Goldenrod Avenue and Bayview Drive shall be upgraded to be ADA compliant.
11. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development shall be removed. All brick carriage walks, planter walls, decorative stones, and stair risers along Goldenrod Avenue and Bayview Drive are considered non-standard improvements.

12. The existing sewer cleanout shall be upgraded per STD-406-L within the public right-of-way if constructed with substandard material. Replacement shall be determined by a City Public Works Inspector.
13. An encroachment permit is required for all work activities within the public right-of-way.
14. All improvements shall comply with the City's sight distance requirements (City Standard 110-L).
15. Landscaping within the sight distance triangle shall be a maximum height of 24 inches. Landscaping within 24 inches from the curb face shall be low growing ground cover. Landscaping within the public right-of-ways shall be limited to a maximum height of 36 inches.
16. The existing street tree along Goldenrod Avenue shall be protected in place. Unauthorized tree removal will trigger substantial penalties for all of the parties involved.
17. Pursuant to Chapter 13 of the Municipal Code, one (1) 36 inch box Maytenus boaria (Mayten Tree) street tree shall be planted along the Bayview Drive frontage per City Standard 118-L-B.
18. The existing 4 inch outlet drain shall be plugged. If an overflow outlet is required, a new curb drain shall be installed per City Standard 184-L.
19. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way shall be required at the discretion of the Public Works Inspector.
20. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Variance No. VA2012-006. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

## **Attachment No. PC 2**

Draft Resolution - Deny



RESOLUTION NO. \_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING VARIANCE NO. VA2012-006 FOR AN ENCROACHMENT INTO THE REAR SETBACK, AN INCREASE IN FLOOR AREA LIMIT, AND EXECPTIONS FROM THE THIRD FLOOR LIMITATIONS ASSOCIATED WITH THE CONSTRUCTION OF A NEW SINGLE-UNIT DWELLING LOCATED AT 211 GOLDENROD AVENUE (PA2012-126)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Annette Wiley, with respect to property located at 211 Goldenrod Avenue, and legally described as the southeasterly ½ of Lot 1, Block 133, Re-subdivision of Corona del Mar, requesting approval of a variance.
2. The applicant proposes to construct a new single-unit dwelling with a two-car garage on a sub-standard size lot. The applicant is requesting a variance to encroach 5 feet into the required 10-foot rear setback, to exceed the maximum allowed floor area limit for the property (1,404 square feet) by 444 square feet, and to deviate from the third floor size and location limitations. The third floor would exceed the maximum floor area (187 square feet) by 33 square feet and would be located closer than 15 feet to the front setback line.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential (RS-D).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-B).
5. A public hearing was held on December 6, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place, and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. Pursuant to Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

**SECTION 3. REQUIRED FINDINGS.**

The Planning Commission may approve a variance only after making each of the required findings set forth in Section 20.52.090 (Variances). In this case, the Planning Commission was unable to make the required findings based upon the following:

1. The Variance application for the proposed single-unit residential dwelling is not consistent with the legislative intent of Title 20 of the Municipal Code and that findings required by Section 20.52.090 are not supported in this case. The proposed project may prove detrimental to the community.
2. The design, location, size, and characteristics of the proposed project are not compatible with the single- or two-unit dwellings in the vicinity. The development may result in negative impacts to residents in the vicinity and would not be compatible with the enjoyment of the nearby residential properties.
3. The sub-standard size of this property does not preclude the construction of a reasonable size dwelling of 1,404 square feet that would be compatible with surrounding lots. The proposed dwelling can be redesigned to comply with the required development standards and approval of the Variance is not necessary to preserve this substantial property right.

**SECTION 4. DECISION.****NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby denies Variance No. VA2012-006.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 6<sup>TH</sup> DAY OF DECEMBER, 2012.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Michael Toerge, Chairman

BY: \_\_\_\_\_  
Fred Ameri, Secretary



## **Attachment No. PC 3**

Applicant's Project Description



211 Goldenrod  
AP No. 052-071-009  
Variance Application  
11.29.2012

### **Project Description and Justification:**

Project consists of the demolition of the existing structure and construction of a new single family residence of 1,848 square feet which includes a two-car garage.

#### **1 Rear Setback Encroachment request:**

The proposed structure would maintain the required 10-foot front yard setback from the easterly property line adjacent to Goldenrod Avenue and the 3-foot side yard setbacks from the northerly and southerly property lines; however, the applicant is requesting a variance to encroach 5 feet into the required 10-foot rear setback adjacent to the westerly property line.

The setbacks when applied to a substandard sized lot disproportionately and unfairly burden the property.

The setback encroachment variance is compatible with existing development in the neighborhood. The immediately adjacent properties have 4-foot rear setbacks instead of the 5 foot requested.

#### **2 Third Floor Limitation**

The applicant is requesting that the third floor area be located closer than 15 feet from the front setback line and that the floor area exceed the 20 percent of the buildable area limit of 187 square feet by 33 square feet.

The location of the third floor was determined by the structural design and needed to align with the placement of the shear walls.

The design exceeds the goal of the Development Standards for open volume area by 98 square feet.

#### **3 Allowable Floor Area:**

The applicant is requesting to exceed the maximum permitted floor area limitation for the property of 1,404 square feet by an additional 444 square feet. When the garage area is deducted the net area equals only 1,062 SF which the applicant feels is insufficient to create a practical and livable home commensurate with the neighborhood.

This lot is substandard in size at 30' x 59'. The current structure was built in approximately 1949, consisting of 1,770 square feet with a one car garage and has an unpermitted rooftop room and an unpermitted enclosed deck at easterly elevation. Stairs to the roof top encroach into the side yard setback. Structural damage caused by water intrusion has required the City to post a notice of safety violation.

Design challenges encountered in this project included extra square footage required by vertical circulation currently outside the building footprint that now is included in the total allowable area and a 332 SF garage which can only be accessed by the existing single curb cut.

The value per square foot of the Subject Property would be substantially less than the per square foot value of other homes in the vicinity as a 1,062 SF home would have very limited marketability. In addition, construction of a 1,062 SF home of comparable quality to the surrounding homes is not economically feasible.

The Planning Commission granted a similar variance to Davidson-Took property at 201 Sapphire Avenue, Balboa Island, on September 20, 2012.

### **Additional Points**

The approval of a variance is appropriate as applicant has demonstrated the existence of conditions which support each of the required findings:

- 1** There are special or unique circumstances or conditions applicable to the subject property that do not apply generally to other properties in the vicinity under an identical zoning classification in that the Subject Property is substandard in size as compared to other properties in the vicinity;
- 2** Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification as the required setbacks unfairly and disproportionately burden the Subject Property as compared to other typical properties in this CDM block; e.g., the FAR typical in this CDM block is 1.047 whereas the allowable FAR for the Subject Property with the required setbacks is only .79; additionally, a structure in strict compliance with the Zoning Code requirements would include only 1,062 square feet of livable area.
- 3** Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant; given the land costs in the vicinity of the Subject Property, it is not economically feasible to construct a residence on the property with only 1,062 sf of livable area that is compatible with the quality of neighboring residences;
- 4** Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district in that the Subject Property is unique in size and the requested FAR is consistent with the FAR typical in this CDM block;
- 5** Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood in that the granting of the variance will allow the demolition of the current structure which is non-conforming, has been "red tagged" and is an "eyesore" to the neighborhood and will enable the construction of a replacement structure compatible with quality of residences in the neighborhood; and
- 6** Granting of the variance will not be in conflict with the intent and purpose of this section, this Zoning Code, the General Plan, or any applicable specific plan as the granting of the variance will improve the neighborhood by enabling the demolition of a non-conforming, "red tagged" structure and replace it with a high quality residence consistent with that of the neighboring residences.

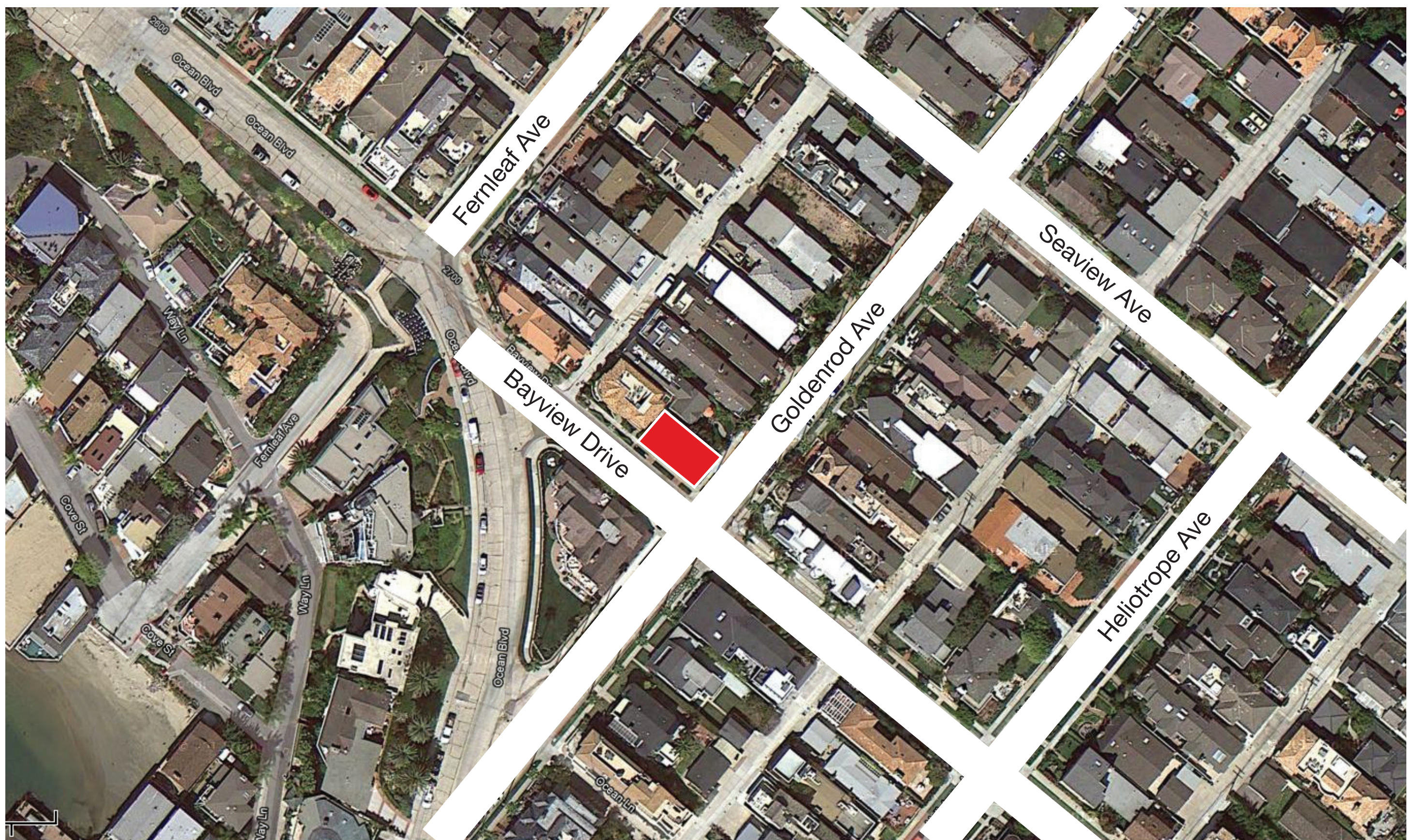
# **Attachment No. PC 4**

Project Plans

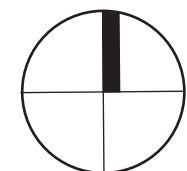




CITY OF NEWPORT BEACH, VARIANCE PERMIT APPLICATION  
WILEY  
ARCHITECTS



Vicinity Map

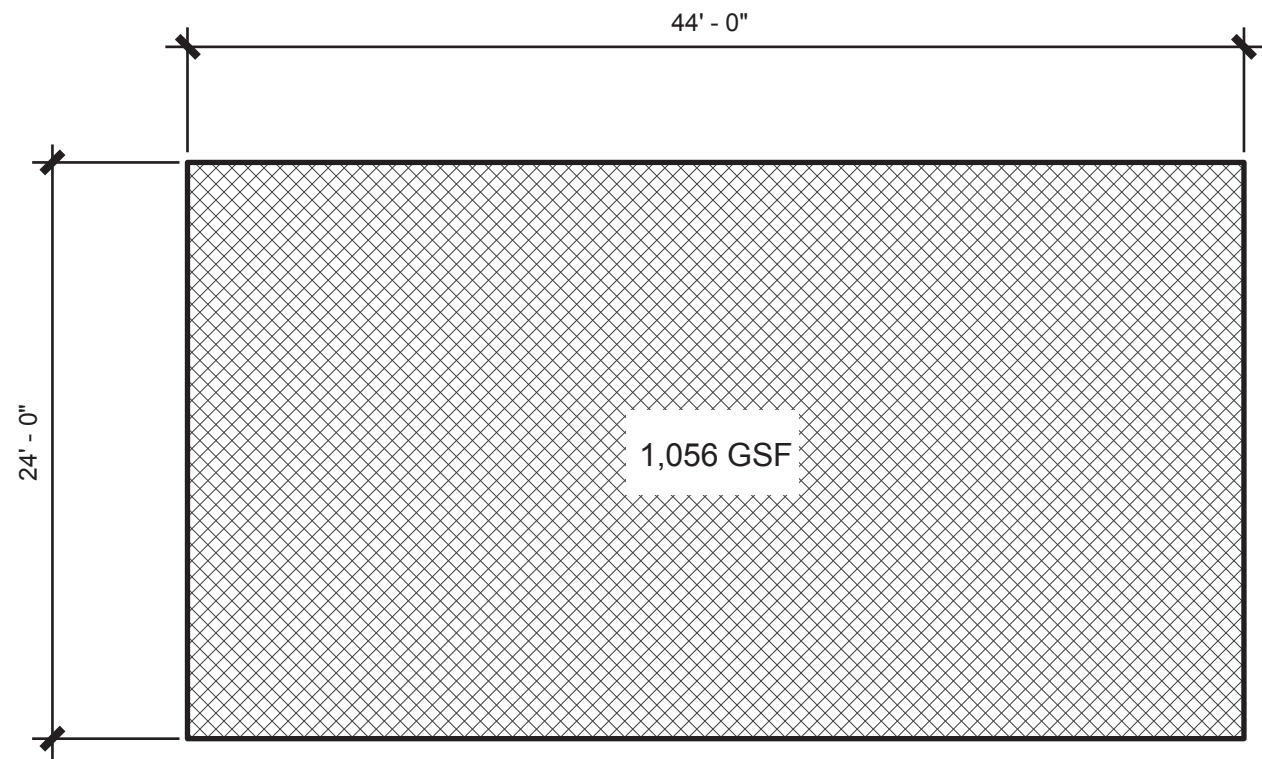


Project Address:  
211 Goldenrod Ave  
Corona Del Mar, CA

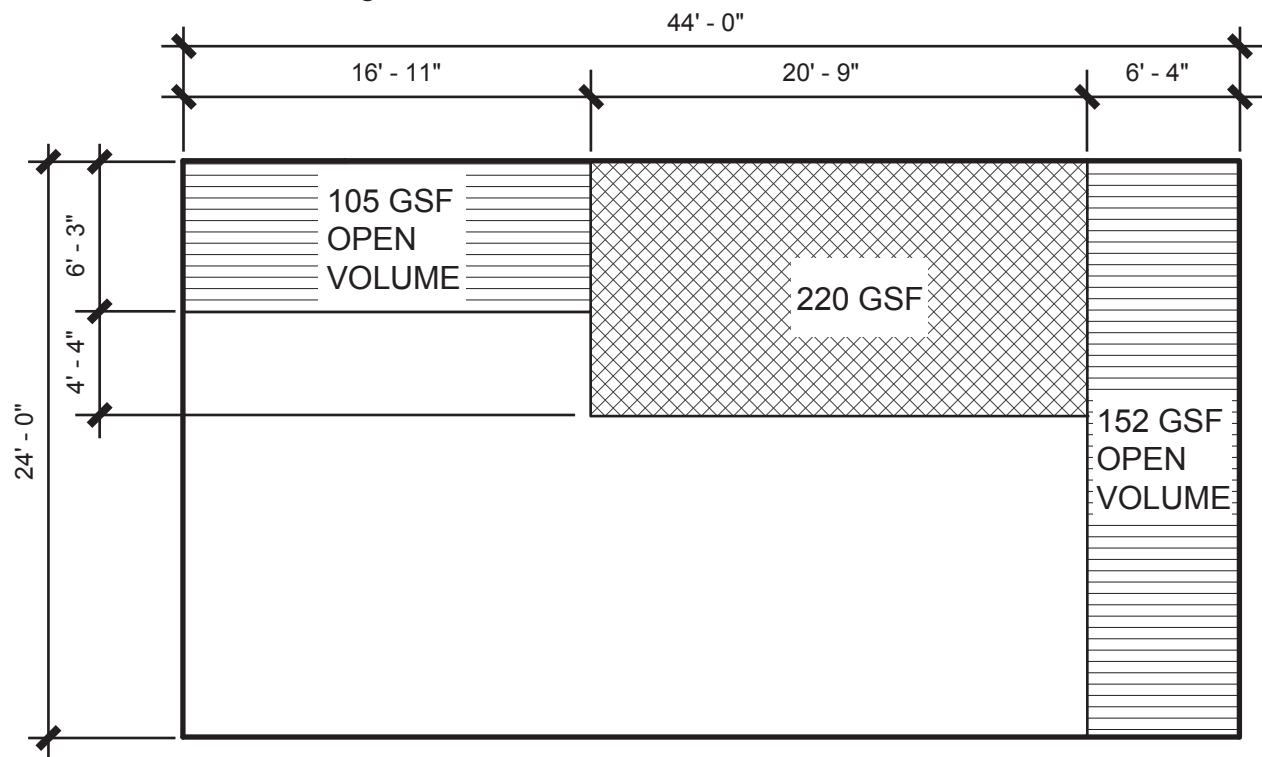
Legal Description:  
EAST ONE HALF OF LOT 1, BLOCK 133  
OF RE SUB, CORONA DEL MAR TRACT

Contact Person:  
Annette Wiley  
949-371-9793

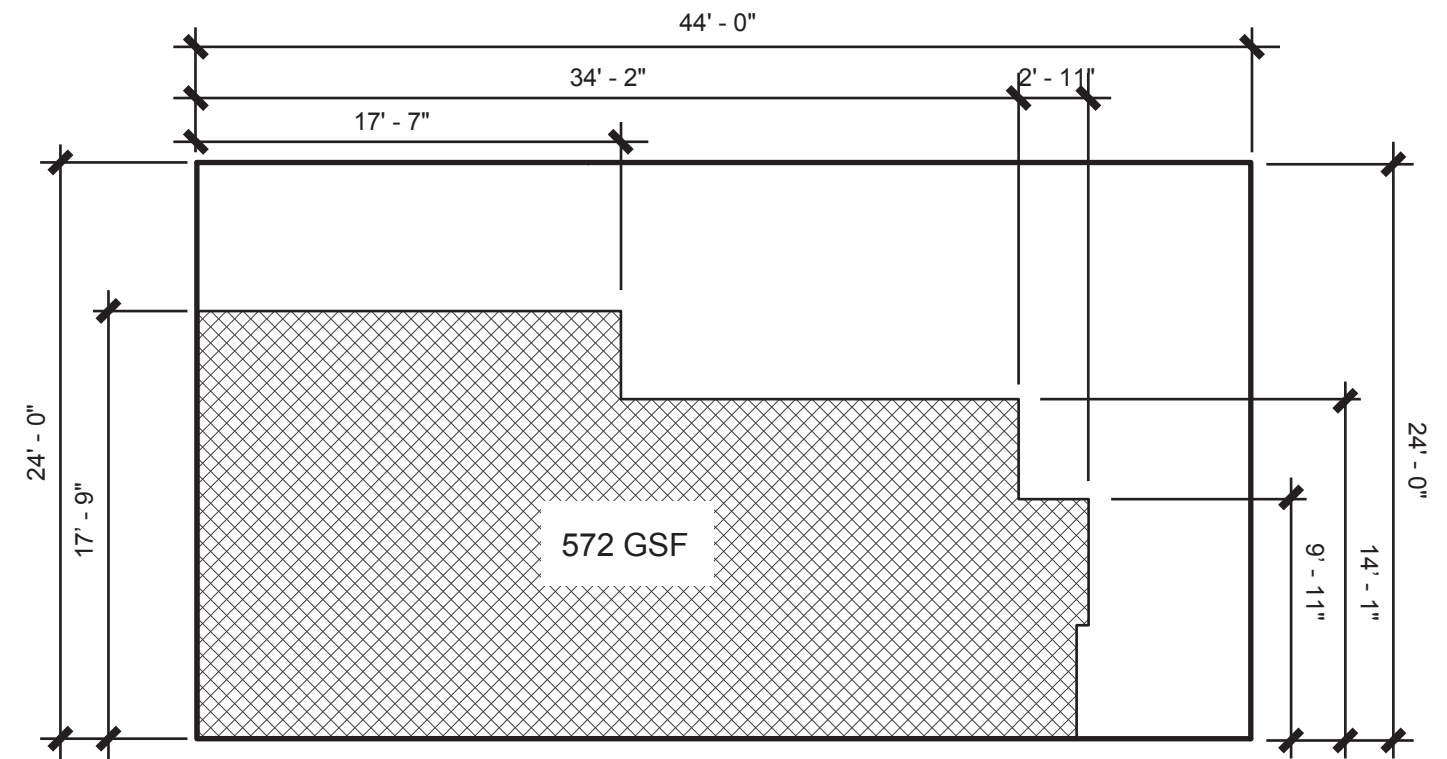
WILEY  
ARCHITECTS 1  
34



First Floor Plan  
Area Diagram



Third Floor Plan  
Area Diagram



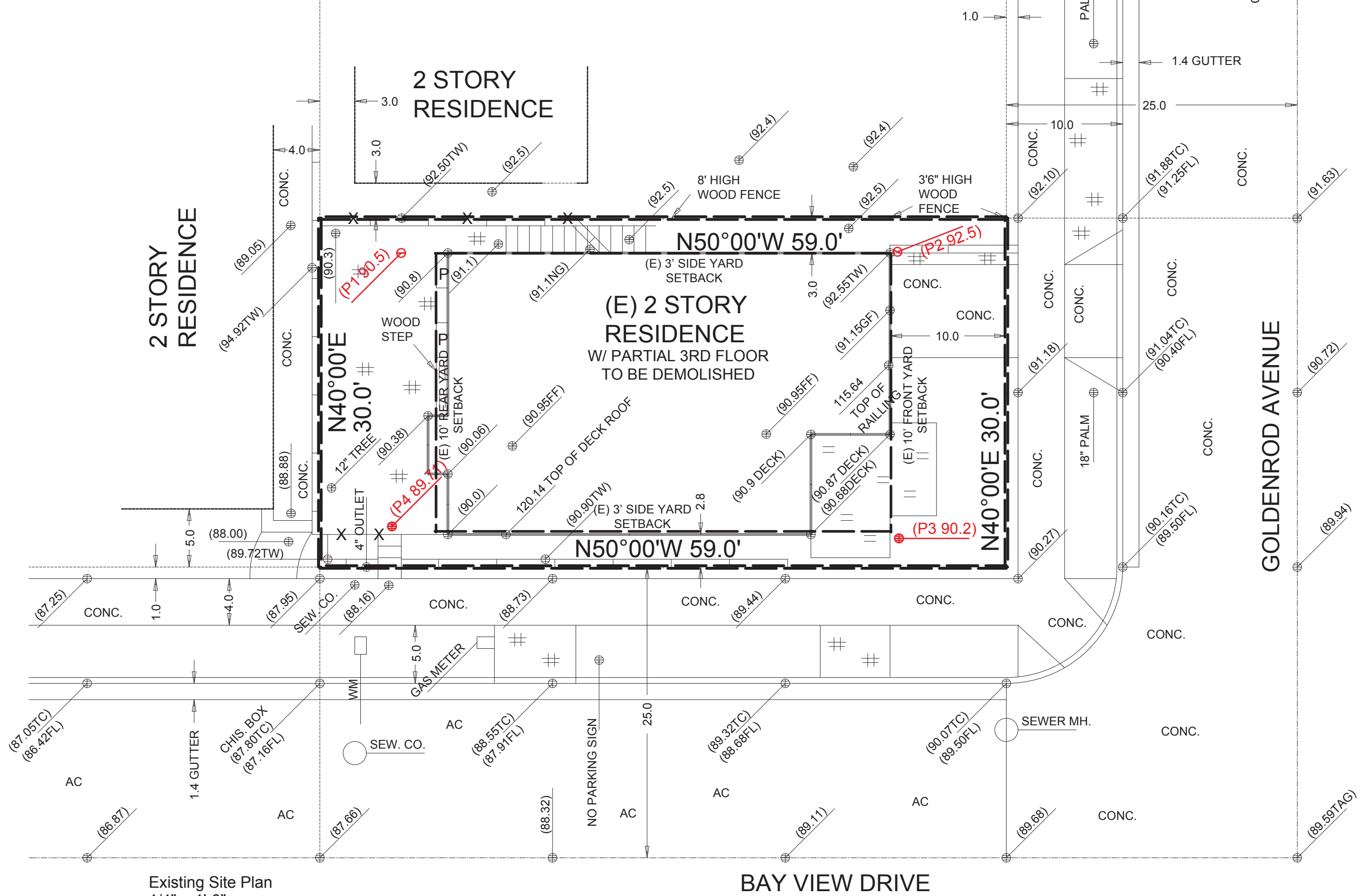
Second Floor Plan  
Area Diagram

Open Volume required 20% buildable:  
 Buildable: 44' x 24' = 1,056 sf  
 20% buildable: .20 x 1,056 = 211.2 sf  
 Actual Open Volume: 257 sf

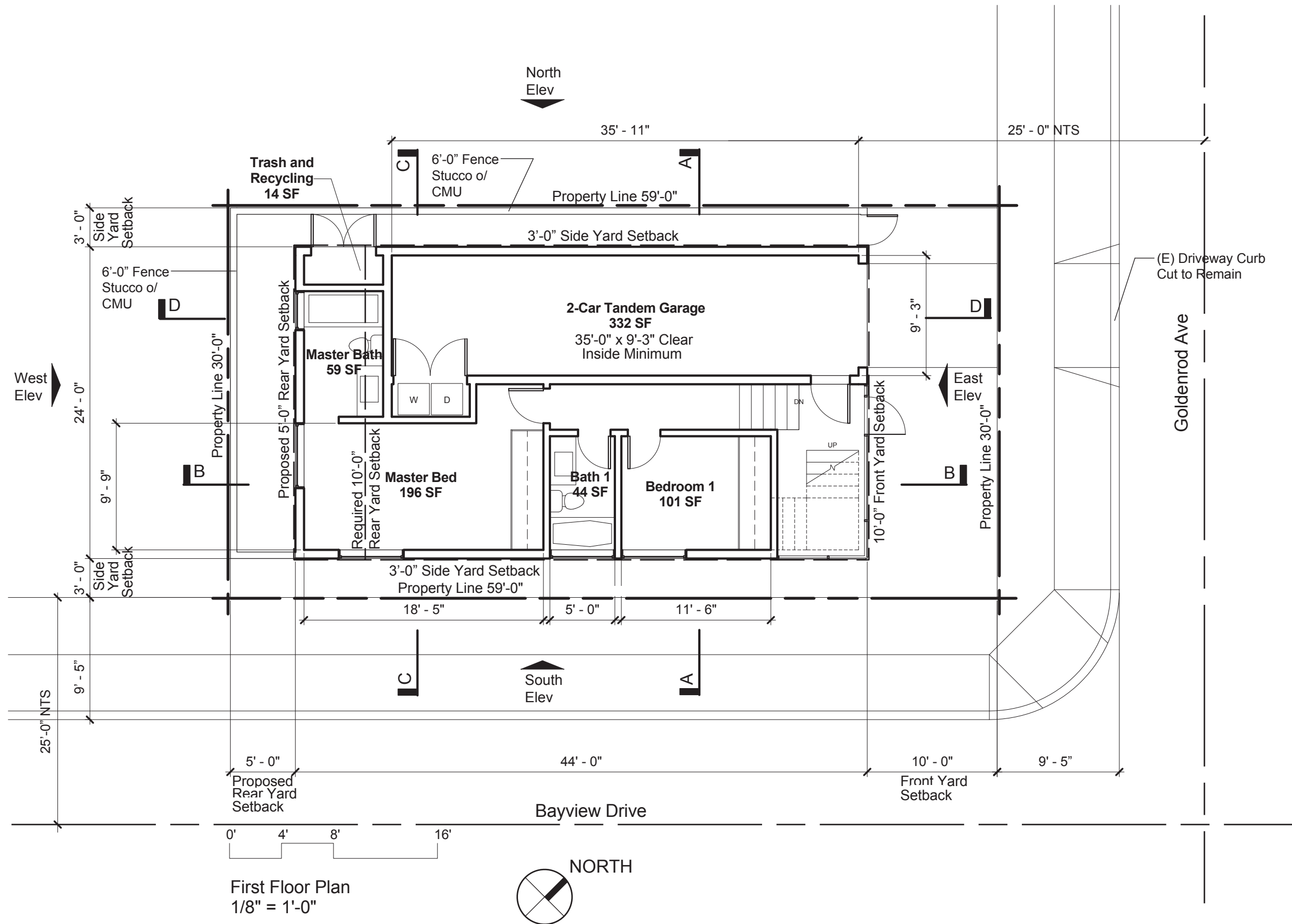
Area Diagrams for Open Volume Calculations

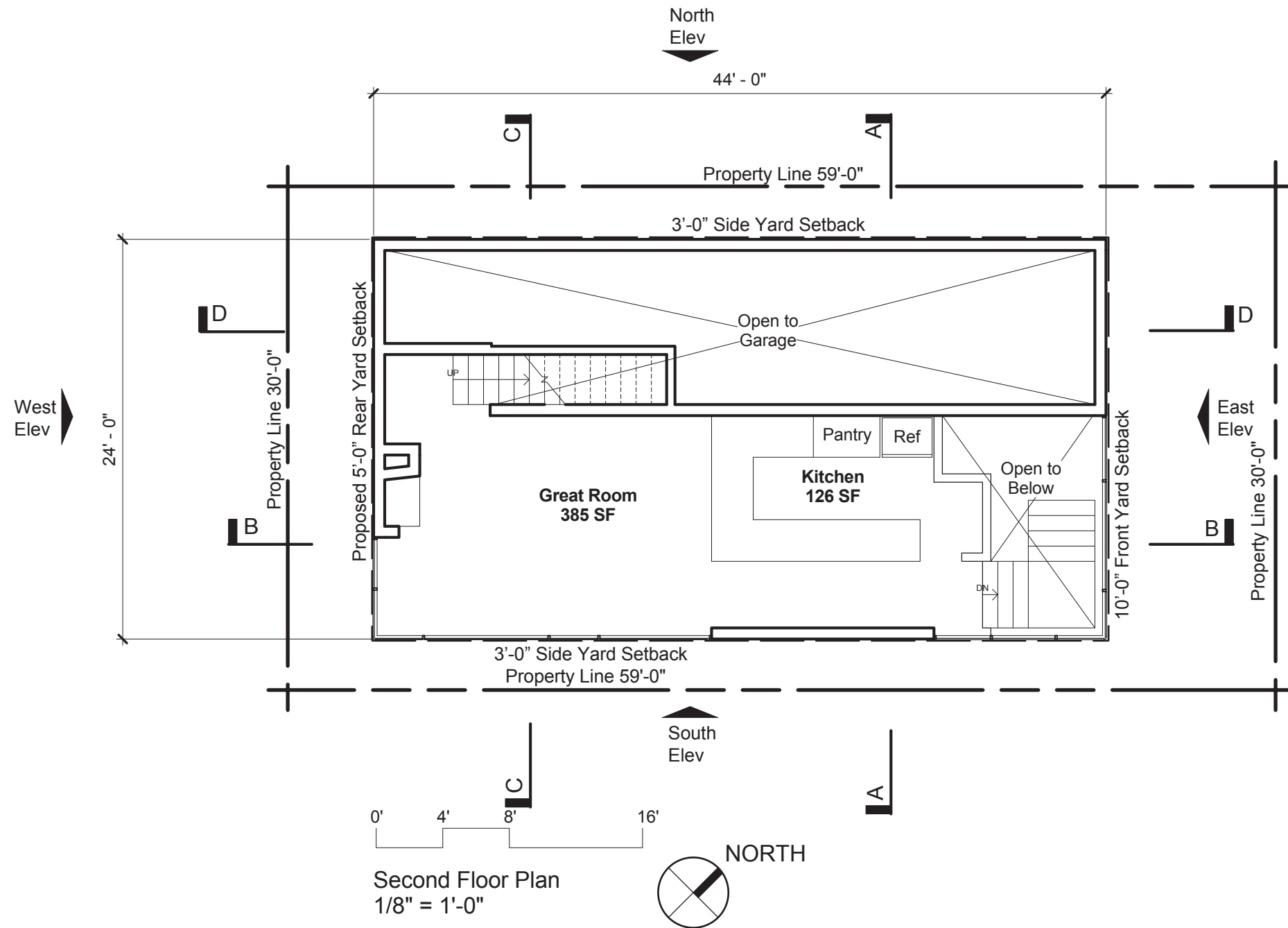
### Project Area

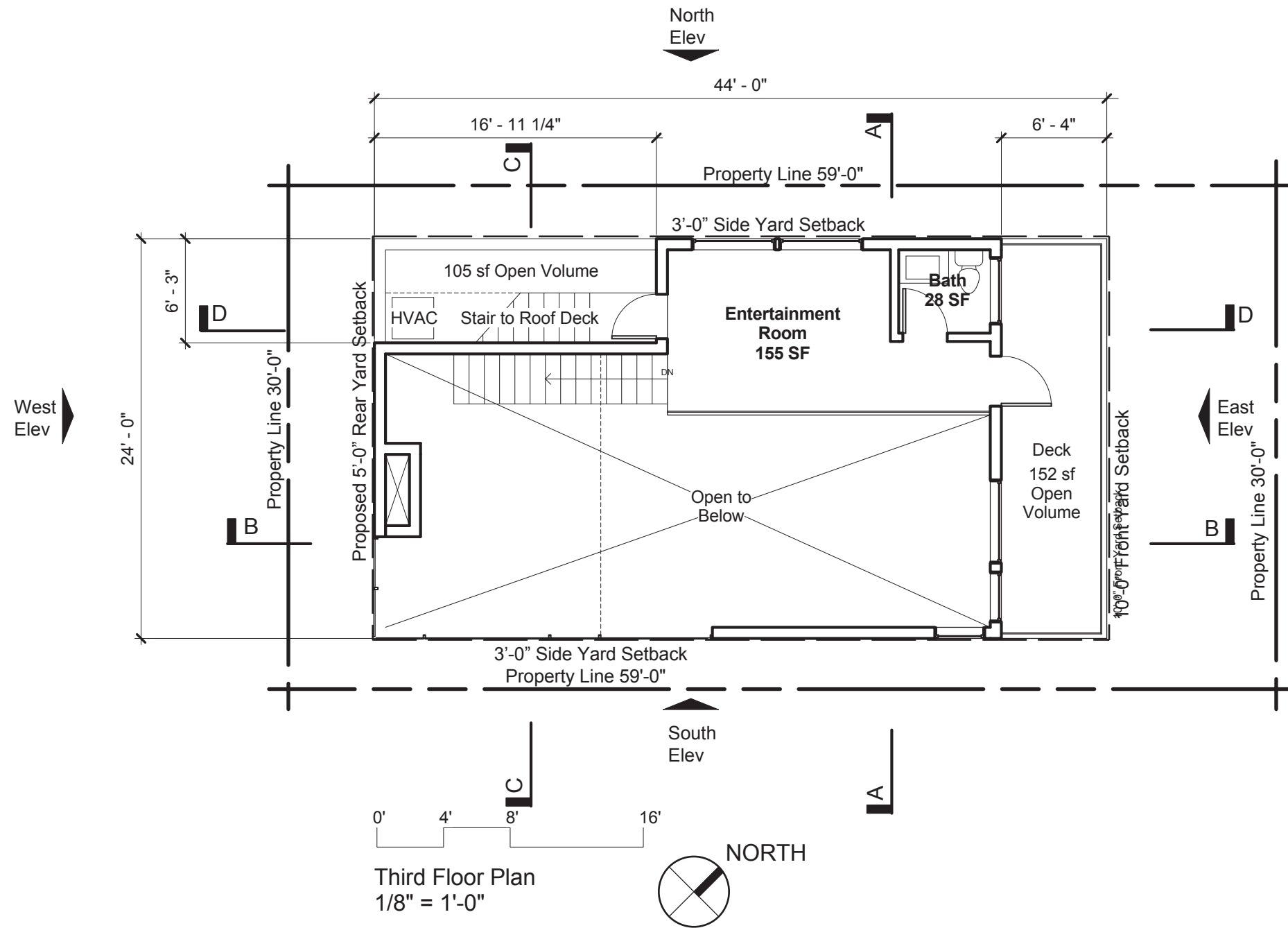
Floor 1 - 1,056 gsf  
 Floor 2 - 572 gsf  
 Floor 3 - 220 gsf  
 Total GSF: 1,848 gsf

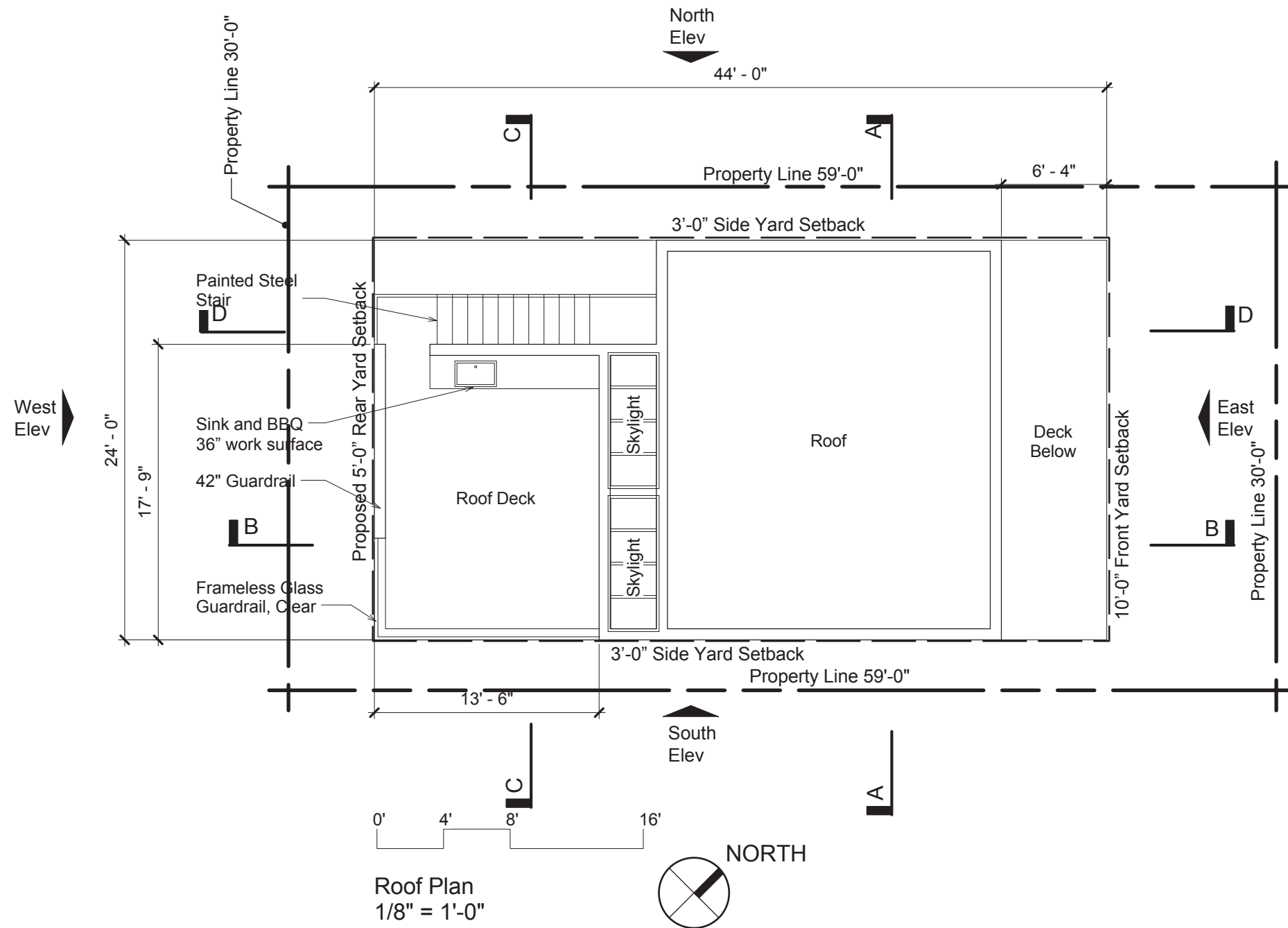


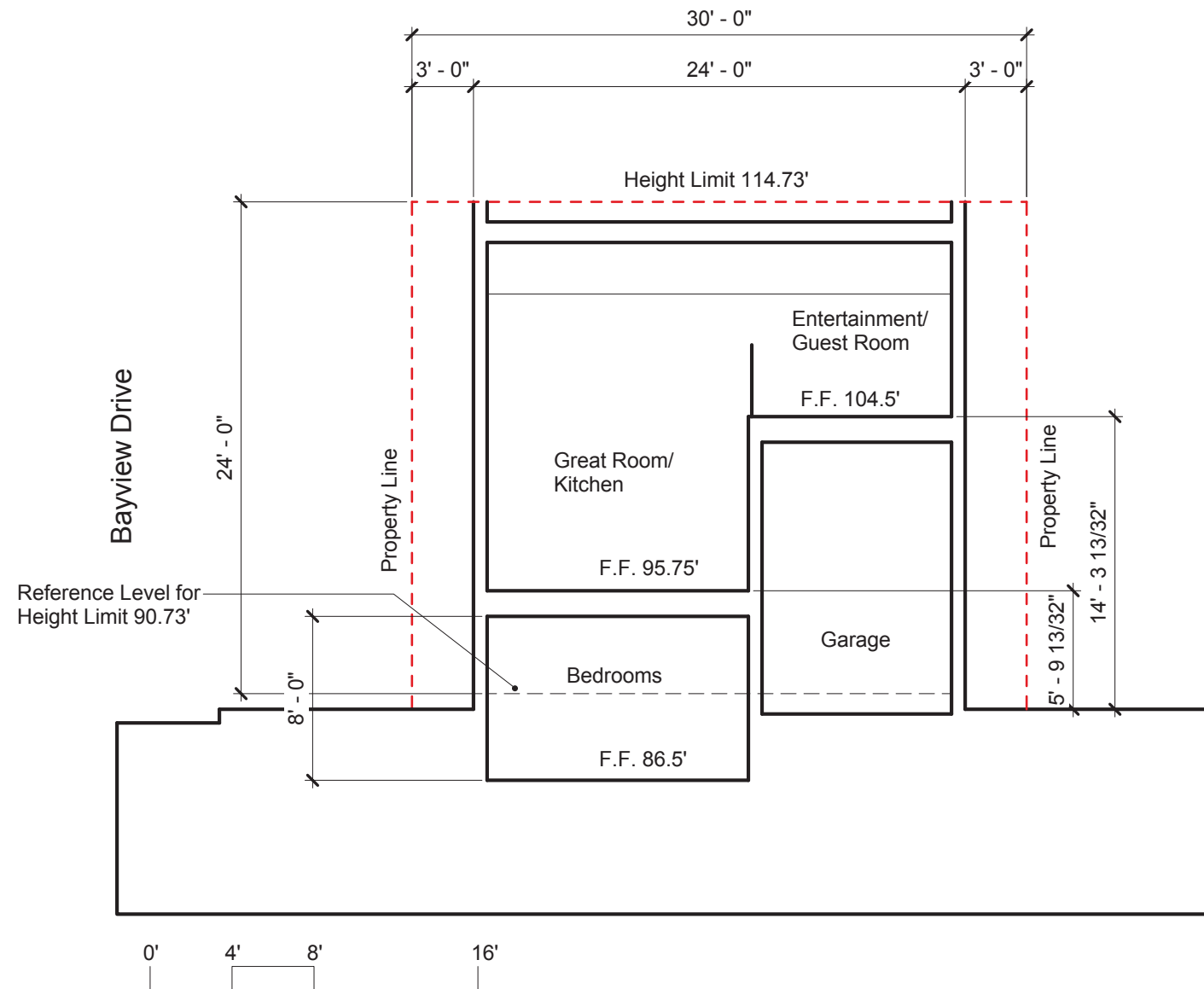
Existing Site Plan  
1/4" = 1'-0"



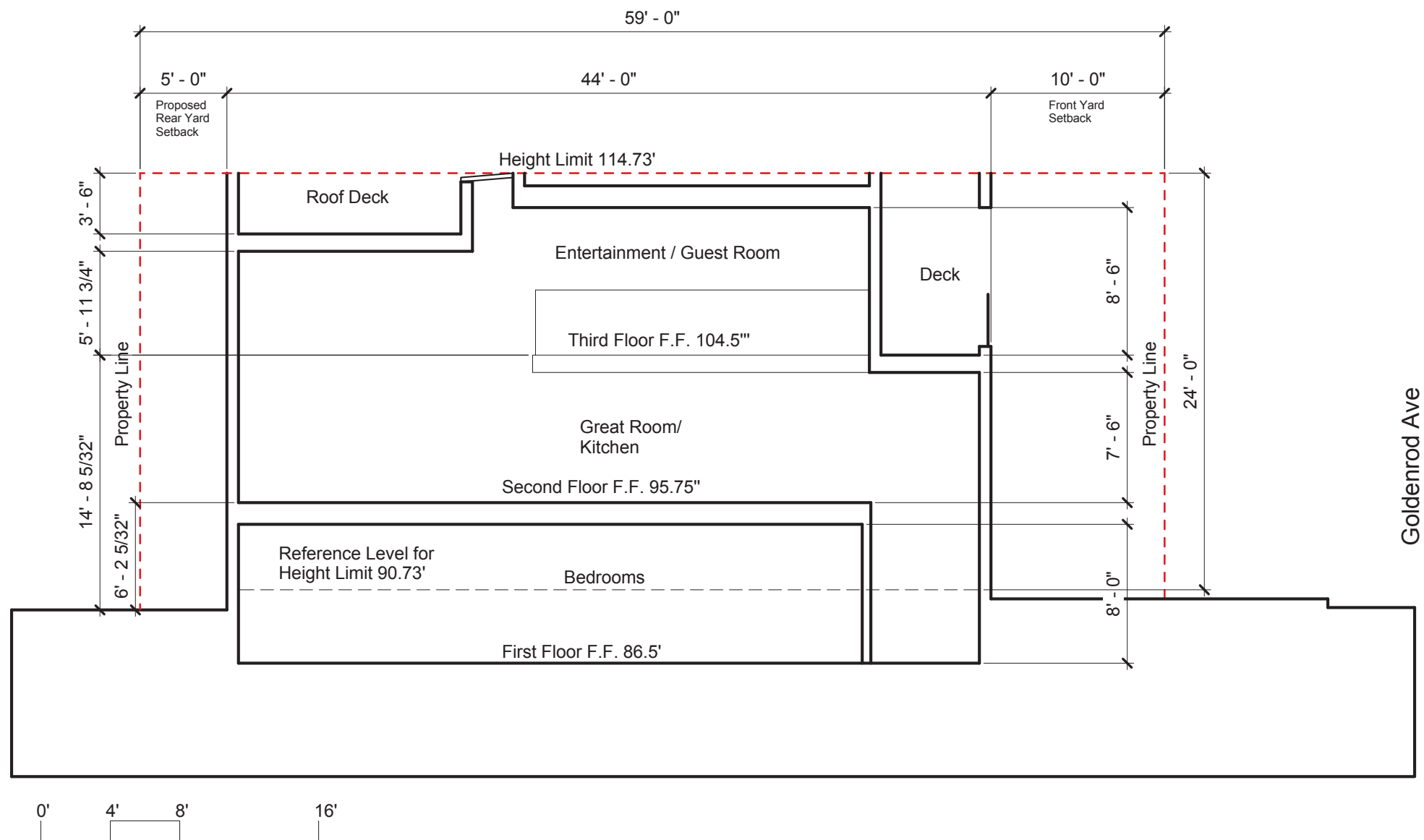




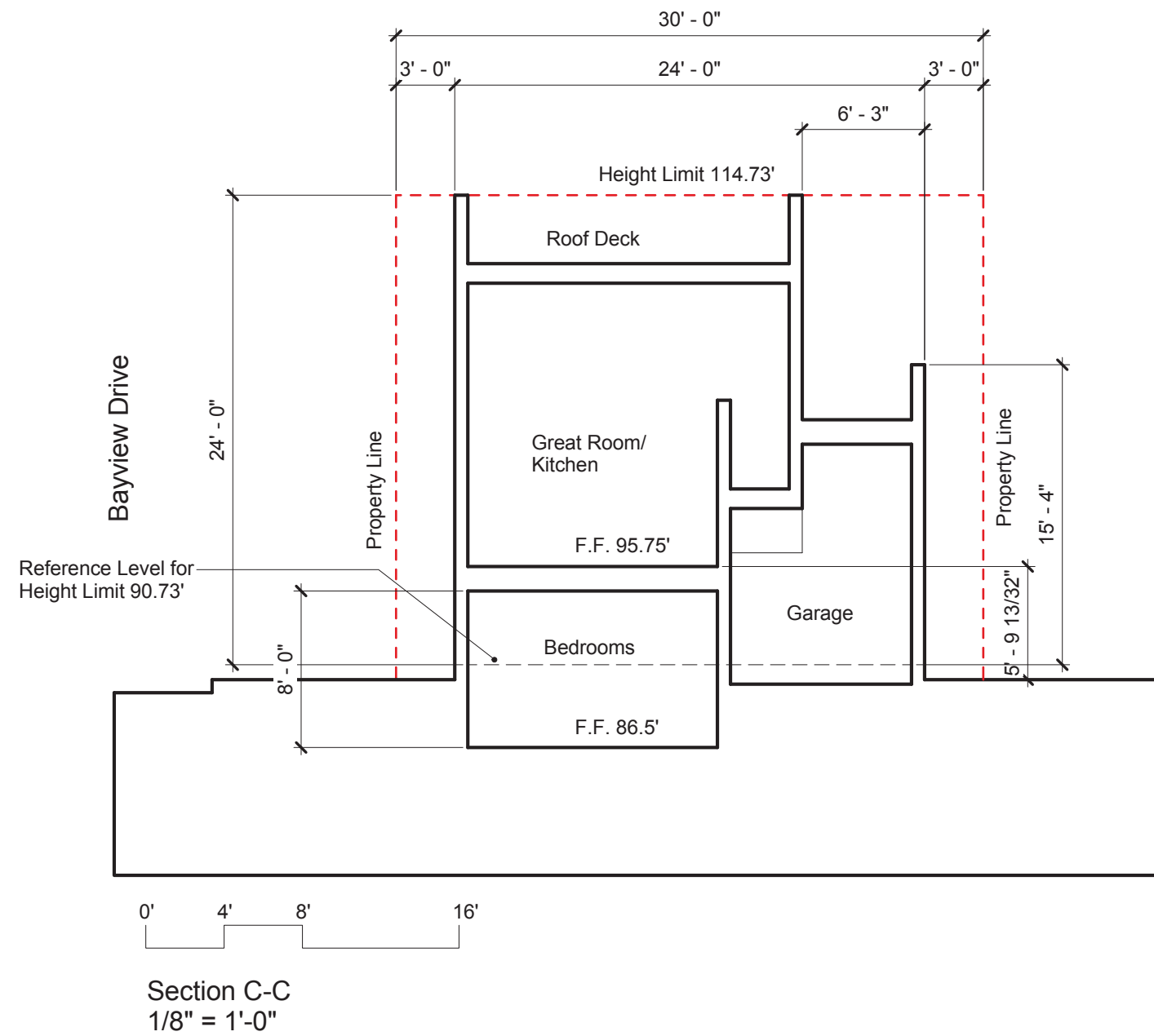


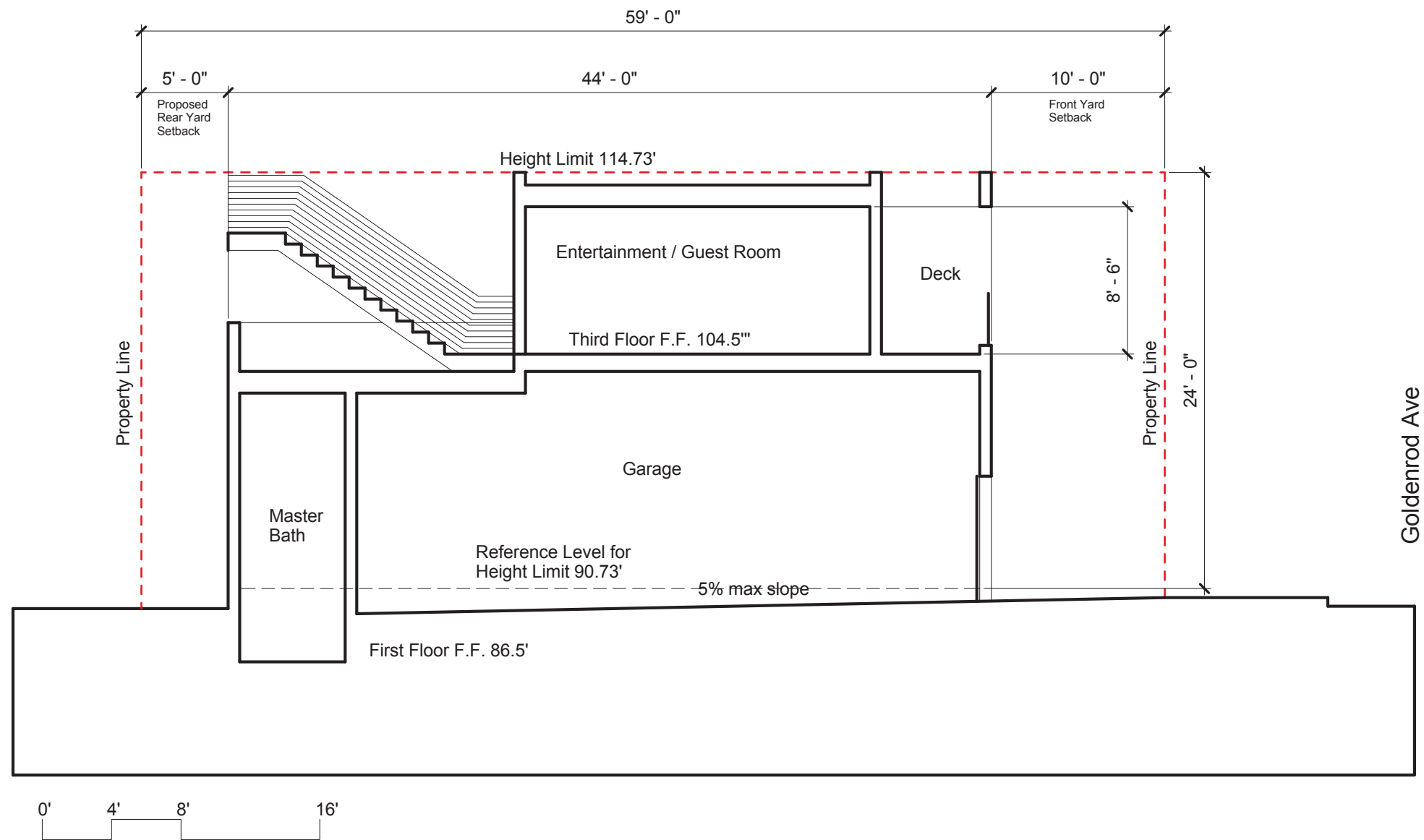


Section A-A  
1/8" = 1'-0"

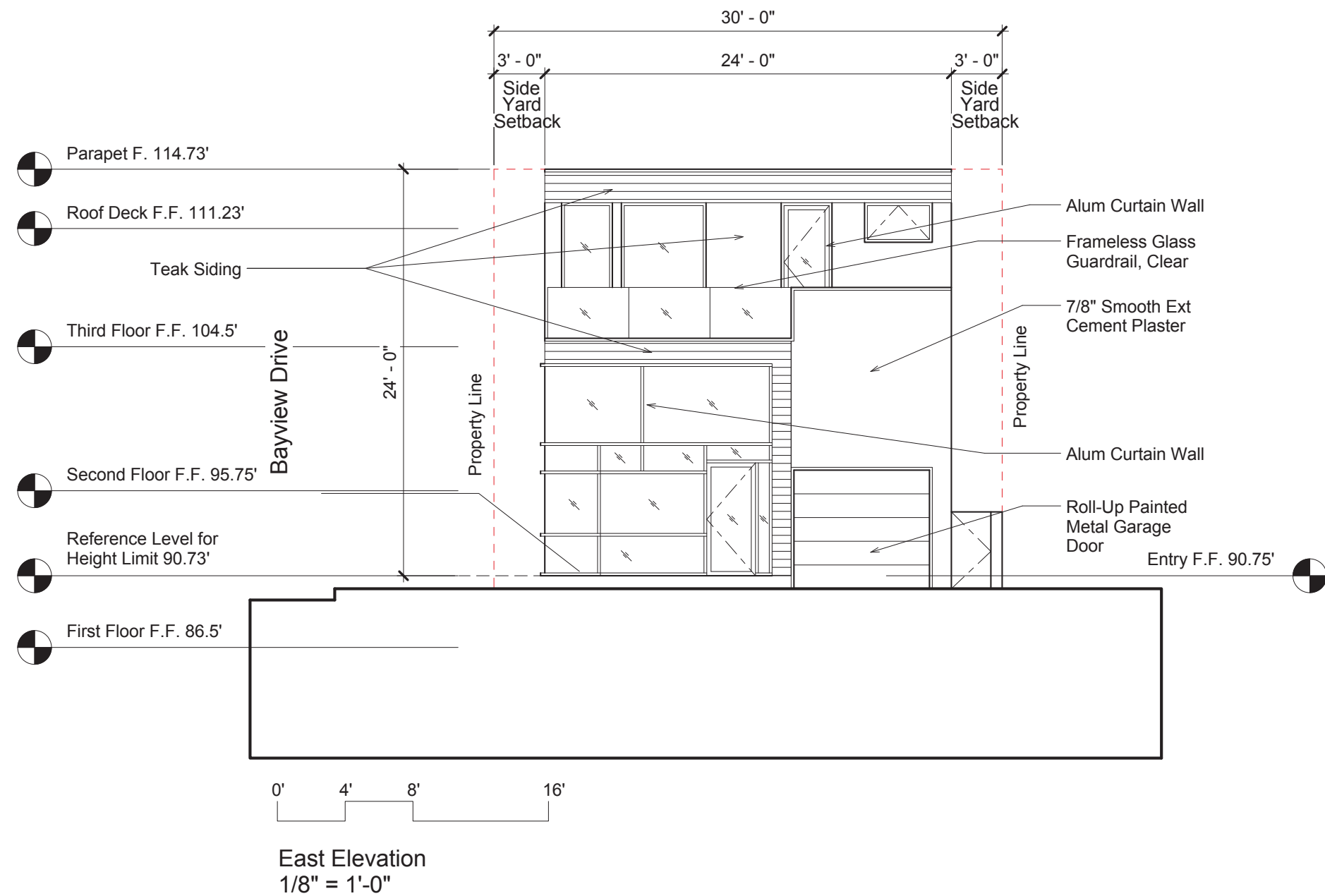


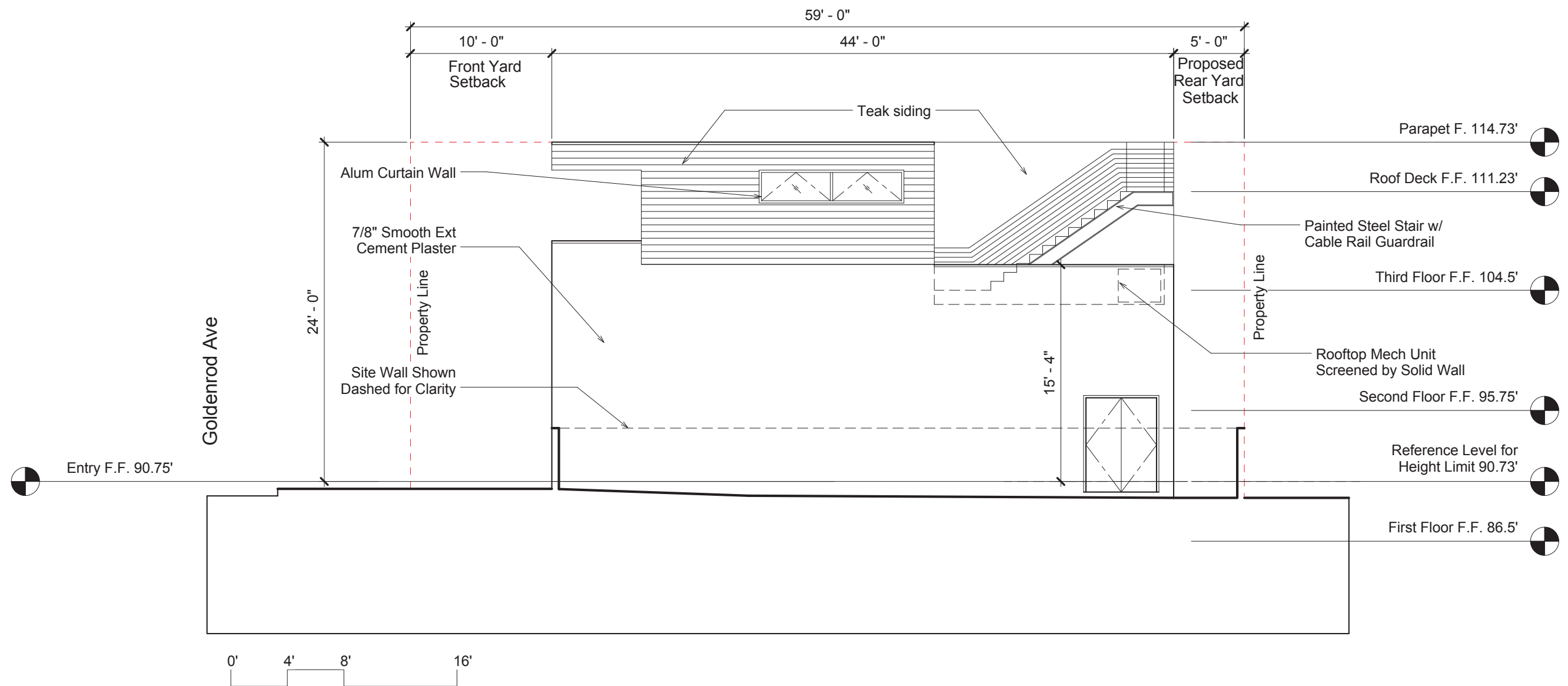
Section B-B  
1/8" = 1'-0"



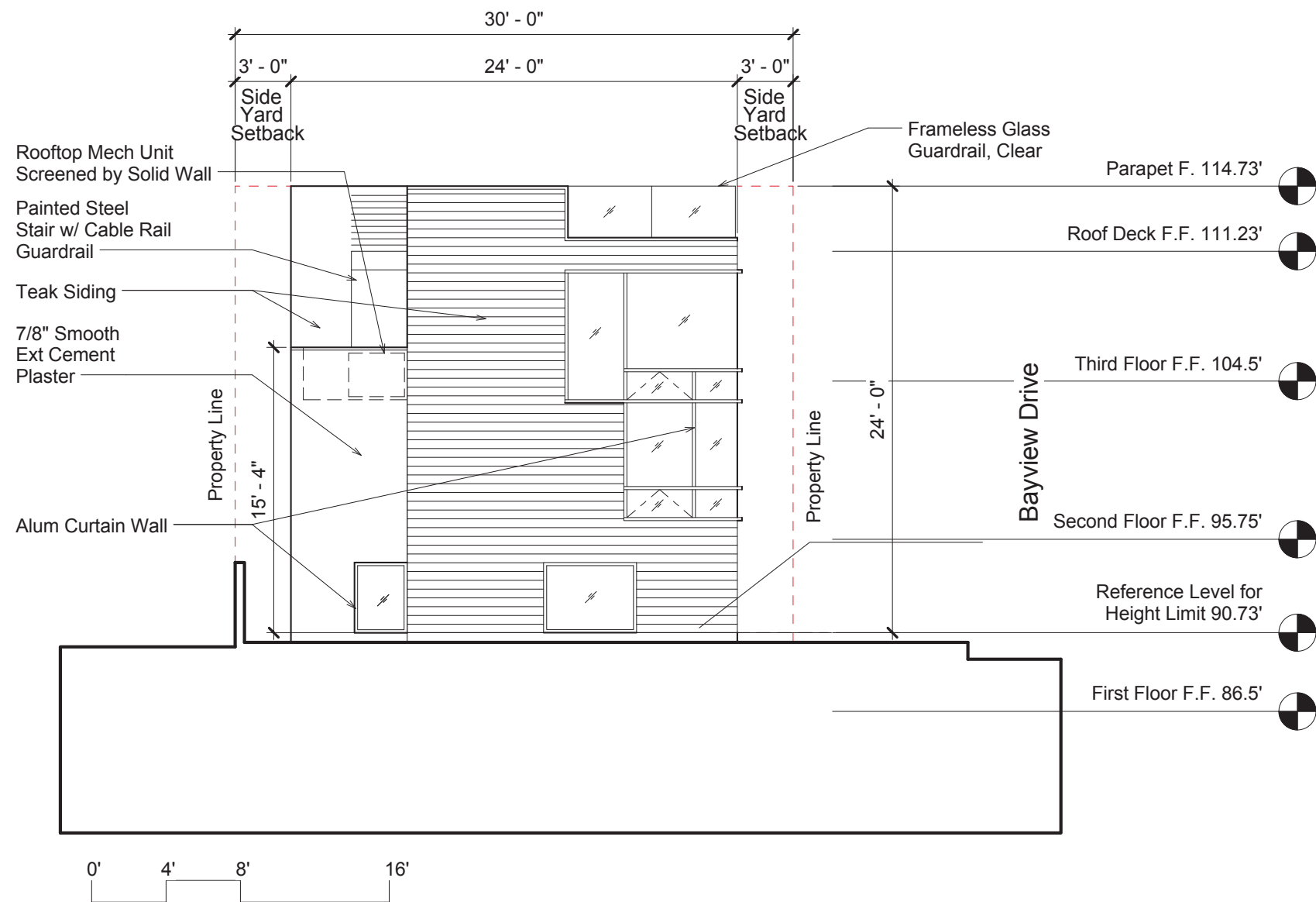


Section D-D  
1/8" = 1'-0"

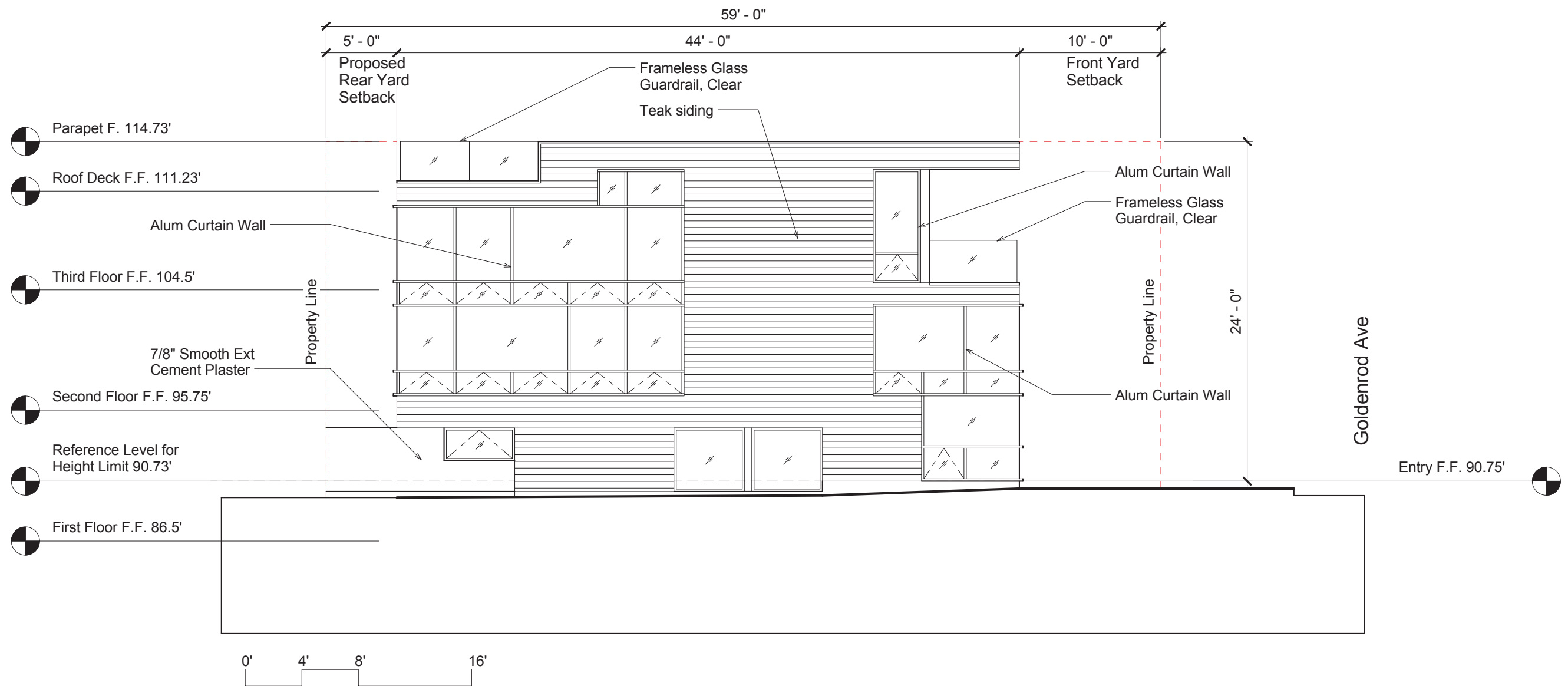




North Elevation  
1/8" = 1'-0"



West Elevation  
1/8" = 1'-0"



South Elevation  
1/8" = 1'-0"



Existing Condition, North Property Line



Existing Condition, Neighbor to South



Existing Condition, Neighbor to North



Existing House, Bayview Elevation



Existing House, Corner of Bayview abd Goldenrod



Existing Condition, Neighbor to West



Existing Condition, Neighbor to West



View from corner Bayview and Goldenrod



View from Bayview Drive looking North



Aerial View



Aerial View